

[116H5329]



(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. BEAN of Florida introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Freedom from Govern-  
5 ment Competition Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1           (1) Private sector business concerns, which are  
2           free to respond to the private or public demands of  
3           the marketplace, constitute the strength of the  
4           United States economic system.

5           (2) Competitive private enterprises are the most  
6           productive, efficient, and effective sources of goods  
7           and services.

8           (3) Unfair Government competition with the  
9           private sector of the economy is detrimental to the  
10          United States economic system.

11          (4) Unfair Government competition with the  
12          private sector of the economy is at an unacceptably  
13          high level, both in scope and in dollar volume.

14          (5) Current law and policy have failed to ad-  
15          dress adequately the problem of unfair Government  
16          competition with the private sector of the economy.

17          (6) It is in the public interest that the Federal  
18          Government establish a consistent policy to rely on  
19          the private sector of the economy to provide goods  
20          and services necessary for or beneficial to the oper-  
21          ation and management of Federal agencies and to  
22          avoid unfair Government competition with the pri-  
23          vate sector of the economy.

24   **SEC. 3. DEFINITIONS.**

25          In this Act, the term "agency" means—

1 (1) an executive department as defined by sec-  
2 tion 101 of title 5, United States Code;

3 (2) a military department as defined by section  
4 102 of such title; and

5 (3) an independent establishment as defined by  
6 section 104(l) of such title.

7 **SEC. 4. PROCUREMENT FROM PRIVATE SOURCES.**

8 (a) **POLICY.**—In the process of governing, the Fed-  
9 eral Government should not compete with its citizens. The  
10 competitive enterprise system, characterized by individual  
11 freedom and initiative, is the primary source of national  
12 economic strength. In recognition of this principle, it has  
13 been and continues to be the general policy of the Federal  
14 Government—

15 (1) to rely on commercial sources to supply the  
16 products and services the Government needs;

17 (2) to refrain from providing a product or serv-  
18 ice if the product or service can be procured more  
19 economically from a commercial source; and

20 (3) to utilize Federal employees to perform in-  
21 herently governmental functions (as that term is de-  
22 fined in section 5 of the Federal Activities Inventory  
23 Reform Act of 1998 (Public Law 105–270; 112  
24 Stat. 2384)).

1 (b) GENERAL RULE.—Except as provided in sub-  
2 section (c) and notwithstanding any other provision of law,  
3 each agency shall obtain all goods and services necessary  
4 for or beneficial to the accomplishment of its authorized  
5 functions by procurement from private sources.

6 (c) EXEMPTIONS.—Subsection (b) shall not apply to  
7 an agency with respect to goods or services if—

8 (1) the goods or services are required by law to  
9 be produced or performed, respectively, by the agen-  
10 cy; or

11 (2) the head of the agency determines and cer-  
12 tifies to Congress in accordance with regulations  
13 promulgated by the Director of the Office of Man-  
14 agement and Budget that—

15 (A) Federal Government production, man-  
16 ufacture, or provision of a good or service is  
17 necessary for the national defense or homeland  
18 security;

19 (B) a good or service is so critical to the  
20 mission of the agency or so inherently govern-  
21 mental in nature that it is in the public interest  
22 to require production or performance, respec-  
23 tively, by Government employees; or

24 (C) there is no private source capable of  
25 providing the good or service.

1 (d) METHOD OF PROCUREMENT.—The provision of  
2 goods and services not exempt by subsection (c)(1) or  
3 (c)(2) shall be performed by an entity in the private sector  
4 through—

5 (1) the divestiture of Federal involvement in the  
6 provision of a good or service;

7 (2) the award of a contract to an entity in the  
8 private sector, using competitive procedures, as de-  
9 fined in section 152 of title 41, United States Code,  
10 and section 2302 of title 10, United States Code; or

11 (3) conducting a public-private competitive  
12 sourcing analysis in accordance with the procedures  
13 established by the Office of Management and Budg-  
14 et and determining that using the assets, facilities,  
15 and performance of the private sector is in the best  
16 interest of the United States and that production or  
17 performance, respectively, by the private sector pro-  
18 vides the best value to the taxpayer.

19 (e) CONTRACTED ACTIVITIES.—The head of an agen-  
20 cy may utilize Federal employees to provide goods or serv-  
21 ices previously provided by an entity in the private sector  
22 upon completion of a public-private competitive sourcing  
23 analysis described in subsection (d)(3), and after making  
24 a determination that the provision of such goods or serv-

ices by Federal employees provides the best value to the taxpayer.

(f) REGULATIONS.—The Director of the Office of Management and Budget shall promulgate such regulations as the Director considers necessary to carry out this section. In promulgating such regulations, the Director shall assure that any State or territory, or political subdivision of a State or territory, complies with the policy and implements the requirements of this section when expending Federal funds.

**SEC. 5. STUDY AND REPORT.**

The Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall carry out a study to evaluate the activities carried out in each agency, including those identified as commercial and inherently governmental in nature in the inventory prepared pursuant to the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 31 U.S.C. 501 note) and shall transmit a report to the Congress prior to June 30 of each year. The report shall include—

(1) an evaluation of the justification for exempting activities pursuant to section 4(c); and

(2) a schedule for the transfer of commercial activities to the private sector, pursuant to section

- 1 4(d), to be completed within 5 years after the date
- 2 on which such report is transmitted to the Congress.